



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI, RP, FF

Introduction

This matter dealt with an application by the tenant to dispute an additional rent increase. The tenant also seeks an Order for the landlord to make repairs to the unit, site or property and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and were hand delivered to the landlord on October 07, 2010.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Is the tenant entitled to dispute an additional rent increase?
- Is the tenant entitled to an Order for the landlord to make repairs to the unit, site or property?

Background and Evidence

Both parties agree that this month to month tenancy started on March 01, 2006. The Parties had a verbal agreement in place. Rent for this unit is \$800.00 per month and is due on the first of each month. The tenant paid a security deposit of \$375.00 on March 01, 2006.



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The tenant states she received a rent increase notice posted on her door on July 31, 2010. This notice states that the landlord will increase the tenants rent by \$25.60 per month starting on November 01, 2010. The tenant seeks to dispute this Notice.

The tenant seeks an Order for the landlord to make repairs to the unit, site or property. She states the landlord has made most of the repairs at this time but there is one repair outstanding that she asked him verbally to repair. This is a security light outside the entrance hallway. The tenant states the landlord replaced the bulb but the light is still not working. The tenant states she has not requested the landlord to make this repair in writing but has asked him many times over the last five or six months.

The landlords' agent states the rent increase is a legal notice and is for the allowable amount for 2010. The landlord has provided a copy of the rent increase form which shows the tenants rent was last increased on August 01, 2008.

The landlords' agent states the landlord has attempted to repair the security light by replacing the bulb but he will now need to get an electrician to look at the problem. The landlords' agent states this will be done as soon as possible. The landlords agent states the tenant has never provided them with a list of repairs she requires to her unit and on occasion when repairs have been attempted the landlords agent was unable to carry out the work as the tenants belongings were in the way.

The tenant states the landlord gives many notices to enter her unit and she requests that these notices contain a time and a reason for the entry in future.

The landlords' agent states this is generally done and states that this information will be included in all future 24 hour notices.

The tenant states when she first rented the unit the landlord gave her use of the hallway for storage. This was a verbal agreement between them. She states the landlord has now told her she cannot use this area for storage and must remove her belongings.



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The landlords' agent disputes this she states when the tenant first rented the unit she told the landlord that she was moving from a large house and had a lot of belongings. She states the landlord told the tenant she could store some of her belongings in the hallway on a temporary basis and has now been asked to remove them.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. With regard to the tenants' application to dispute the rent increase, I refer to section 43(1) of the *Residential Tenancy Act (Act)* which states a landlord may impose a rent increase only up to the amount calculated with the regulations or ordered by the director or agreed to in writing by the tenant. Section 43(2) states a tenant may not make an application for dispute resolution to dispute a rent increase that complies with this part.

I find the landlord has increased the rent by 3.2% which is the allowable amount for 2010. Therefore, the tenant is not entitled to dispute this amount and her new rent will increase by \$25.60 to \$825.60. The landlord has requested that the rent increase starts on November 01, 2010. However, a landlord must give a tenant three clear months Notice of a rent increase and as this Notice was posted to the tenants' door on July 31, 2010 it was not deemed to have been received until three days after posting. Consequently, the Notice is deemed served on August 03, 2010 and therefore, the date the rent increase may start is December 01, 2010 pursuant to section 42(2) of the Act. Consequently, I dismiss this section of the tenants' application without leave to reapply.

With regards to the tenants application for the landlord to make repairs to the unit, site or property; I find that the tenant has not requested any required repair work in writing from the landlord. The tenant agrees the landlord has completed some repairs and the only thing outstanding is the security light. Both Parties agree the landlord has attempted to repair this light but will need to get an electrician to look at it. Therefore, I am not prepared at this time to make an Order for the landlord to effect this repair as it appears to be in hand. I suggest the tenant



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puts it in writing to the landlord and give the landlord a reasonable time frame to make this repair and I dismiss this section of her application with leave to reapply.

With regards to the use of the entrance hallway; The tenant claims she had a verbal agreement to use this area for storage and the landlord states this was only a temporary arrangement to help the tenant when she first moved into the unit. When one Party contradicts the other the burden of proof falls on the claimant to provide corroborating evidence that this agreement for the use of the hallway was in place. By their nature, disputed verbal terms are not clear and are often impossible for a third party to interpret. Therefore, I am not prepared to find the verbal arrangement for the use of this hallway to be an enforceable term in the tenancy agreement between the two Parties.

As the tenant has been unsuccessful with her claim I find she must bear the cost of filing her own application.

Conclusion

The tenants' application to dispute the rent increase is dismissed without leave to reapply.

The tenants' application for a repair Order is dismissed with leave to reapply.

The remainder of the tenants claim is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: November 05, 2010.

Dispute Resolution Officer